

Job # 42977

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

BIANCA JOHNSON and
DELMAR CANADA,
Plaintiffs,

vs.

Case No. 3:16cv16

ANDREW HOMES, JOHN DOES 1-3,
and ALBEMARLE COUNTY,

ORIGINAL

Defendants.

ZOOM VIDEO CONFERENCE
DEPOSITION OF DARRELL BYERS
10:00 a.m. - 10:25 a.m.
July 10, 2020

Job No. 42977

REPORTED BY: Darlene Joy Owings, CCR

Job # 42977

1 A. I believe that to be correct.

2 Q. And today you're being represented by
3 Ms. Farley; is that correct?

4 A. I believe that to be correct, yes.

5 Q. To your knowledge, when did your
6 representation by Mr. Guynn end?

7 A. I have no idea.

8 Q. But he was your lawyer, correct?

9 A. Yes.

10 Q. But you don't know when he was your
11 lawyer?

12 A. I don't know when it ended. I think
13 that's what your question was, is when.

14 Q. In any event, did you have anything --
15 are you familiar with generally the case that
16 we're here for in which Officer Holmes is being
17 charged with racial profiling? You're familiar
18 with that, aren't you?

19 A. Generally, yes.

20 Q. And you played some role in obtaining
21 documents in connection with discovery in this
22 case; did you not?

23 A. That is correct.

24 Q. Were you, in fact, the liaison between
25 the attorney for Mr. Holmes and the police

Job # 42977

1 department for the purpose of collecting
2 documents?

3 A. That is correct.

4 Q. Now do you recall the first document
5 you were asked to create?

6 A. I believe there were several documents
7 that we were asked to create.

8 Q. Okay. Well, let's do the ones at least
9 that I have.

10 A. Okay.

11 Q. I'm holding up a document that's
12 titled -- I hope you can see it.

13 The other lawyers have copies, correct?
14 And the reporter should have a copy of this as
15 well, which I forwarded to Larry.

16 MR. GUYNN: Mine has Exhibit 1 in the
17 bottom left-hand corner.

18 MR. FOGEL: Great. Yes. Exactly.

19 BY MR. FOGEL:

20 Q. Captain, do you have this in front of
21 you?

22 A. I don't. But if you tell me what it is
23 I can see if I can retrieve it.

24 Q. Well, I want to ask you what it is.
25 Can you see it?

1 the number of requests that were sent over. I
2 don't necessarily find that particular document
3 right now that's requesting this information.

4 Q. Do you think there was a written
5 request to you for the preparation of this
6 document?

7 A. I wouldn't see the need to prepare it
8 otherwise.

9 Q. I'm sorry?

10 A. I wouldn't see the need to prepare the
11 document if there wasn't a written request to.

12 Q. Who are you getting the requests from,
13 Mr. Guynn?

14 A. Yes. Most of my requests came from
15 Mr. Guynn, yes.

16 Q. Now you didn't actually prepare this
17 document, did you?

18 A. No.

19 Q. Who did you ask to prepare the
20 document?

21 A. Our crime analyst.

22 Q. And her name was Ms. Zawitz at the
23 time?

24 A. That is correct.

25 Q. Did you prepare a memo to Ms. Zawitz to

1 tell her what it is you wanted her to prepare?

2 A. I did not.

3 Q. You talked to her orally, correct?

4 A. That would be correct.

5 Q. Good. What did you tell her?

6 A. That was over three years ago. I
7 cannot recall that information, but it would have
8 had to been what was requested on paper.

9 Q. But you don't know what was requested?

10 A. No, sir. I don't have that --

11 Q. You don't know where the paper is?

12 A. I don't have that in front of me, no,
13 sir, I do not.

14 Q. Is there any other paper trail within
15 the Albemarle Police Department that would
16 indicate what was requested, what was produced by
17 the crime analyst, and what was presented back to
18 Mr. Guynn?

19 A. Are there any other documents that
20 would --

21 Q. Yes, in the police department. Is
22 there any other possible way that we can track
23 this in writing that a request was made by you to
24 prepare a document, what that request was, your
25 request to Ms. Zawitz to prepare the document, her

1 response back to you, and your response back to
2 Mr. Guynn; is there any paper trail to any of
3 those responses to your knowledge?

4 A. No, sir.

5 Q. Other than, of course, you said you
6 wouldn't have prepared it unless there was a
7 writing to you, correct?

8 A. Unless there was a request.

9 Q. Right.

10 A. I don't have the request in front of
11 me, if that makes it more simple for you to
12 understand.

13 Q. But what was important is that you said
14 you wouldn't have prepared it unless there was a
15 written request; is that correct?

16 A. That is correct.

17 Q. Okay. And so you don't -- just to
18 finish this off -- you don't know what this
19 document represents, the one we've just been
20 looking at that's marked Plaintiff's Exhibit No. 1
21 in the bottom left-hand corner?

22 A. It represents the number of traffic
23 stops conducted by year. I think your question
24 was, by whom. And I don't know by whom.

25 Q. Okay. Well, underneath that it says

1 says Data Request, Numbers for Sector 1 and 2.

2 Q. Right. But you don't know what that
3 document represents. You don't even know what the
4 word citations mean on that document, correct?

5 A. That would be Jenny's (audio break).
6 So I think it would be best to be defined by
7 Jenny.

8 Q. Okay. I will. But she gave you this
9 document back, didn't she? She gave you this
10 document. And you then gave it to Mr. Guynn, as
11 with the other documents, correct?

12 A. That's correct.

13 Q. When you looked at the document, having
14 received it from Ms. Zawitz, did you ask her any
15 questions about what anything meant on the
16 document?

17 A. I didn't. I don't recall.

18 Q. Did you look at the document?

19 A. I don't recall.

20 Q. Well, back in 2016, did you know what
21 the term citations meant?

22 A. I don't recall.

23 (Whereupon, Exhibit 3 was introduced.)

24 MR. FOGEL: Okay. I have no other
25 questions.